IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

MONDAY, THE 17TH SEPTEMBER 2007 / 26TH BHADRA 1929

WP(C).No. 25166 of 2007(U)

PETITIONER:

SANTHI.V.,
AGED 38 YEARS, D/O K.VISALAKSHMI AMMA,
ACCOUNTANT, DISTRICT SURVEILLANCE UNIT,
INTEGRATED DISEASE SURVEILLANCE PROJECT,
OFFICE OF DISTRICT MEDICAL OFFICE,
THIRUVANANTHAPURAM.

BY ADV. SRI.U.BALAGANGADHARAN

RESPONDENTS:

1. STATE OF KERALA REPRESENTED BY,
SECRETARY, HEALTH MINISTRY & FAMILY WELFARE
DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DIRECTOR OF HEALTH SERVICES &
EX-OFFICIO DISTRICT SURVEILLANCE OFFICER,
THIRUVANANTHAPURAM.

3. THE DISTRICT MEDICAL OFFICER (HEALTH)
& EX-OFFICIO DISTRICT SURVEILLANCE OFFICER,
THIRUVANANTHAPURAM.

4. NATIONAL RURAL HEALTH MISSION,
STATE MISSION DIRECTOR (ARYOGYAKERALAM),
DIRECTORATE OF HEALTH SERVICES,
THIRUVANANTHAPURAM.

5. THE DIRECTOR,
NATIONAL INSTITUTE OF COMMUNICABLE DISEASES,
22, SHAMNATH MARG, NEW DELHI 110 054.

BY ADV. SRI.M.AJAY
SRI.P.PARAMESWARAN NAIR, CGC
SRI. BIJOY CHANDRAN, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 17/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V. GIRI , J

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W.P.(C) NO. 25166 OF 2007

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Dated this the 17th day of September, 2007.

**JUDGMENT**

The petitioner, a graduate in commerce with six months training in Office Management and Automation, as evidenced by Ext.P1(b), was appointed as Accountant, on contract basis in Integrated Disease Surveillance Project under the National Rural Health Mission, as evidenced by Ext.P3. Ext.P3 shows that the original engagement was for a period of one year. Apparently, agreement was executed at the time of the original engagement/appointment as well, where the period of contract is shown as one year or until further orders. The petitioner completed one year. There was a break in service of 3 days, which according to the petitioner, was artificial. Be that as it may, there was a fresh contract for a period of one year as evidenced by Annexure I produced along with the statement filed by the 4th respondent. Anenxure I shows that the fresh contract, commenced on 05.03.2007, will be in force for a period of one year or until further orders. Apparently, this is a standard clause in the contract incorporated in other agreements as evidenced by Ext.P11 produced by the petitioner herself. Though the petitioner originally raised a contention that her

service cannot be dispensed with during the currency of the renewed agreement/fresh agreement, the said contention does not require a detailed appraisal in as much as that, in all other agreements executed by different persons, engaged in the same project, the clause seems to be the same. Mainly the contract period is for one year, except where a decision is taken to terminate it ahead of the expiry of one year.

2. The main grievance voiced by the learned counsel for the petitioner centres around Exts.P8 and P9. Ext.P8 is the notification now issued by the State Mission Director(Arogyakeralam) attested by Director of Health Services, under the National Rural Health Mission. The same invites application for certain posts in the District Programme Support Unit under the National Rural Health Mission. The qualification prescribed for the post of Accountant in the District is B.Com with P.G.D.C.A and also at least three years experience. The learned counsel for the petitioner contends that this prescription in Ext.P8 is inconsistent with the guidelines formulated by the National Rural Mission. Insofar as the accountant of the District Surveillance unit is concerned, the qualification prescribed in Ext.P9 is graduation with minimum three years experience of Accounts Management, preferably in a Government set up. According to the petitioner, the

qualifications prescribed in Ext.P9 guidelines, have been varied in Ext.P8 and this is illegal.

3. In the statement filed by the 4th respondent it is contended that in 2006, the qualification prescribed for the post of Accountant was graduation with minimum three years experience as accountant, preferably in a Government set up. The post is a temporary one, for which, consultants are engaged on contract. A revision in the qualification, as currently contained in Ext.P8 is said to be justified in the following manner:

| ***Sl. No.*** | ***Name of Post*** | ***Vacancy*** | ***Qualification*** | ***Experience*** | ***Salary & Mode of appointment*** |
|---|---|---|---|---|---|
| 1 | Consultant (Finace) IDSP Wing | Trivandrm | M.Com with PGDCA | 5 years of experience | Consolidated salary of Rs.10,000/- pm on contract basis |
| 2 | Adminstrative Assistant-15 posts | 1 at Headquartes and 1 each in 14 districts | Graduate, Computer literate | 3 years of relevant experience | Consolidated salary of Rs.5,000/- pm on contract basis |
| 3 | Accountant | 1 each in 14 districts | B.Com with PGDCA | At least 3 years experience | Consolidated salary of Rs.7,000/- pm on contract basis |

4. There seems to be a good reason, which has persuaded the respondents in issuing Ext.P8 in prescribing a higher qualification for appointment to the post of Accountant. The power of the respondents to prescribe a higher qualification cannot be disputed, nor is it actually

disputed. The challenge against Ext.P8 seems to be on the premise that it is apparently inconsistent with Ext.P9. As I note, Ext.P9 has no statutory force. It was formulated at the time when the Surveillance Projects were in a nascent stage. There seems to be nothing arbitrary or otherwise unreasonable in the respondents considering the persons with higher qualification, for implementation of the project, as and when the project reaches more advanced stages. Had it been a case of dilution of the qualification originally prescribed,the contention regarding arbitrariness or recruitment of persons of choice on extraneous considerations could have been countenanced. The situation is quite the reverse in the present case. For all these reasons, I do not find any merit in the writ petition and the same is dismissed.

**V. GIRI, JUDGE.**

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